

CHAPTER 5

NONCONFORMING BUILDING AND USES

5.1 NON-CONFORMING USES AND STRUCTURES.

(1) Except as provided in this section, a non conforming use or structure may be continued. A non conforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension. The addition of a solar energy device to a building is not a structural alteration.

(2) The City Council may provide in any zoning ordinance or amendment for:

- (a) the restoration, reconstruction, extension, alteration, expansion, or substitution of non conforming uses upon the terms and conditions set forth in the zoning ordinance;
- (b) The termination of all non conforming uses except billboards by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the non conforming use, if any; and
- (c) the termination of a billboard that is a non conforming use in compliance with Utah Code Annotated 27-12-136.1 et seq.
- (d) establishing a reasonable time period for expiration of the non conforming use that:
 - i balances the harm to the owner against the public good, without imposing an undue burden upon the owner; and
 - ii allows the owner to recover or amortize the fair market value, in an amount that is equal to the amount by condemnation, and takes into consideration the reasonable cost of operation to the owner over the amortized period.
- (e) Notwithstanding Subsection 3.18(c), a City Council may remove a billboard without providing compensation or amortization if, after providing the owner with reasonable notice of proceedings and an opportunity for a hearing, the City Council finds that:
 - i the applicant for a permit made a false or misleading statement in his application;
 - ii the billboard is unsafe; or

- iii the billboard is in an unreasonable state of repair.

5.2 MAINTENANCE PERMITTED.

- (1) A nonconforming building or structure may be maintained.

5.3 REPAIRS AND ALTERATIONS.

- (1) Repairs and structural alterations may be made to a nonconforming building or to a building housing a non-conforming use.

5.4 ADDITIONS, ENLARGEMENTS, AND MOVING.

- (1) A building or structure occupied by a nonconforming use and a building or structure nonconforming as to height, area, or yard requirements shall not be added to or enlarged in any manner or moved to another location on the lot except as provided by Sub-section 2 hereof:

- (2) A building or structure occupied by a nonconforming use or a building or structure nonconforming as to height, area or yard regulations may be added to or enlarged or moved to a new location on the lot upon issuance of a permit authorized by the Planning Commission, provided it shall find:

- (a) The addition, enlargement of, or moving of the building will be in harmony with one or more of the purposes of this Ordinance.
- (b) That the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.

5.5 ALTERATION WHERE PARKING IS INSUFFICIENT.

- (1) A building or structure lacking sufficient automobile parking space as required by this Ordinance, may be altered or enlarged provided additional automobile parking space is supplied to fully meet the requirements of this Ordinance.

5.6 RESTORATION OF DAMAGED BUILDINGS.

- (1) A nonconforming building or structure, which is or is not occupied by a nonconforming use, that is damaged or destroyed by the public enemy, fire, flood, wind, earthquake or other calamity or Act of God may be restored and the occupancy or use of such building, structure, or part thereof, which existed at the time of the damage or destruction may be continued or resumed, provided that such restoration is started within a period of one year and is diligently pursued to completion.

5.7 ONE-YEAR VACANCY OR ABANDONMENT.

- (1) A building or structure or portion thereof, nonconforming as to use, which is or hereafter becomes vacant and remains unoccupied for a continuous period of one year shall not be occupied except by a use which conforms to the use regulations of the Zoning

District in which it is located.

(2) Wherever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be re-established, and any future use shall be in conformance with the provisions of this Ordinance.

(3) Any building, structure, or use for which a valid building permit has been issued and actual construction was lawfully begun prior to the effective date of this Ordinance, may be completed and used in accordance with the plans, specifications and permit on which said building permit was granted.

(4) For purposes of this Section, actual construction is hereby defined to be:

- (a) The actual placing of construction materials in their permanent position, fastened in a permanent manner.
- (b) Actual work in excavating a basement.
- (c) The demolition or removal of an existing structure begun preparatory to rebuilding, provided that in all cases actual construction work shall be diligently carried on without delay until the completion of the building or structure involved.

5.8 CONTINUATION OF USE.

(1) The occupancy of a building or structure by a non-conforming use, existing at the time this Ordinance became effective, may be continued.

5.9 OCCUPATION WITHIN ONE YEAR.

(1) A vacant building or structure may be occupied by a use for which the building or structure was designed or intended, if so occupied within a period of one year after the use became nonconforming.

5.10 CHANGE OF USE.

(1) The nonconforming use of a building or structure may not be changed except to a conforming use permitted or conditional in the Zoning District where it is located; but where such change is made, the use shall not thereafter be changed back to a nonconforming use.

5.11 EXPANSION PERMITTED.

(1) A nonconforming use may be extended to include the entire floor area of the existing building in which it is conducted at the time the use became nonconforming.

5.12 NONCONFORMING USE OF LAND.

(1) The nonconforming use of land, existing at the time this Ordinance became effective, may be continued, provided that no such nonconforming use of land shall in any way be expanded or extended either on the same or on adjoining property, and provided that if such nonconforming use of land, or any portion thereof, is abandoned or changed for a period of one year or more, any future use of such land shall be in conformity with the provisions of this Ordinance.

5.13 BILLBOARDS.

(1) The City Council may remove a billboard without providing compensation or amortization if, after providing the owner with reasonable notice of proceedings and an opportunity for a hearing, the City Council finds that:

(a) the applicant for a permit made a false or misleading statement in his application;

(b) the billboard is unsafe; or

(c) the billboard is in an unreasonable state